EXPLANATORY MEMORANDUM TO

THE BRITISH TRANSPORT POLICE (BARRED LIST AND ADVISORY LIST) REGULATIONS 2026

2026 No. 764

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Lord Hendy of Richmond Hill, Minister of State for Rail at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

2.2 Shanez Cheytan, Deputy Director for Land Transport National Security, at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 David Slatter at the Department of Transport Telephone: 07812686152 or email: david.slatter@dft.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations provide for the processes, procedures and requirements for the maintenance by the British Transport Police Authority ("the Authority") of a barred list and an advisory list for the British Transport Police Force ("BTP"), which were required by Schedule 25 to the Crime and Policing Act 2026 ("the Act").

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is England and Wales and Scotland.

4.3 The territorial application of this instrument is England and Wales and Scotland.

5. Policy Context

What is being done and why?

5.1 These regulations support the establishment and operation of a BTP barred list and advisory list, maintained by the Authority. These lists are modelled on the Home Office barred list and advisory list introduced in 2017, with any differences reflecting the BTP's unique structures and operational context.

5.2 The Authority oversees the BTP, the police force that protects Great Britain's railways and railway infrastructure. It is a Non-Departmental Public Body of the Department for Transport. The 2026 Act establishes the statutory framework requiring the Authority to maintain a barred list and an advisory list.

5.3 Any BTP constables, former constables, members of the civilian staff or former members of the civilian staff who are dismissed from positions within policing become a barred person and are included on the barred list as a result of their dismissal or a finding that they would have been dismissed following proceedings carried out in accordance with regulations made under sections 36 and 37 of the Railways and Transport Safety Act 2003 ("the 2003 Act") by the Authority[1] (in relation to constables and former constables) and under equivalent disciplinary procedures for civilian staff . For constables and former constables, proceedings that lead to dismissal, or a finding that they would have been dismissed would be conducted under BTP (Conduct) Regulations 2020[2] and BTP (Performance) Regulations 2020[3].

5.4 The 2026 Act provides that any person whose name is placed on the barred list will be prevented from being employed or appointed to a position by any other policing body. This would include territorial police forces in England and Wales, the Civil Nuclear Constabulary ("CNC"), the Ministry of Defence Police ("MDP"), the National Crime Agency ("NCA"), local policing bodies, the Independent Office for Police Conduct or His Majesty Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS). This supports public confidence and helps safeguard the integrity of policing.

5.5 As set out in paragraph 5.1 above, these regulations support the establishment and operation of an advisory list as well as a barred list. Individuals who resign or retire while under investigation or if a relevant allegation arises after they leave should be included in the advisory list. Inclusion is triggered if the resignation or retirement occurred after an allegation came to light but before disciplinary proceedings concluded for constables, former constables, and civilian employees. For constables and former constables inclusion is also triggered if the allegation emerged after the individual left the police force. The allegation must relate to conduct, efficiency, or effectiveness and be serious enough that, if proven, it could have led to dismissal. The 2026 Act requires that policing bodies consult the advisory list. It is intended to be used as a vetting tool by policing employers and an individual's inclusion on this list does not preclude their appointment or employment.

5.6 The barred and advisory lists have been introduced to increase transparency and accountability. The lists seek to improve public confidence in the police and ensure that those who do not meet the high standards required of the police service and have been dismissed are not able to continue to work within policing.

What was the previous policy, how is this different?

5.7 Currently, BTP relies on the Police National Database (PND) to identify flags on officer and staff files during vetting. However, the PND was not designed for this purpose, and there are risks that flags may be missed or not updated promptly. Additionally, there is no dedicated barred list or advisory list for BTP constables and civilian employees for other forces to check against. This measure seeks to strengthen the robustness of the vetting process for police officers being employed by the BTP or another police force.

[1] Regulations made by the Authority pursuant to sections 36 and 37 of the 2003 Act can be found at https://btpa.police.uk/publications/our-policies/regulations/ Where any of the regulations made by the Authority pursuant to these sections are updated, they will also be placed on this page.
[2] These regulations were made by the Authority pursuant to sections 36 and 37 of the 2003 Act and can be found at https://btpa.police.uk/wp-content/uploads/2020/12/BTP-Conduct-Regulations-2020-FINAL.pdf
[3] These regulations were made by the Authority pursuant to sections 36 and 37 of the 2003 Act and can be found at https://btpa.police.uk/wp-content/uploads/2021/05/BTP-Performance-Regulations-2020-FINAL.pdf

6. Legislative and Legal Context

How has the law changed?

6.1 Schedule 25 to the 2026 Act. requires that the Authority maintains a barred list (paragraph 1 of Schedule 25) and an advisory list (paragraph 9 of Schedule 25) in relation to the BTP. Section 205 of the Act places a duty on the Authority to check each barred list maintained by a law enforcement employer and prohibits it from employing or appointing any individual on the barred list. Section 209 of the Act places a duty on the Authority to check each advisory list maintained by a law enforcement employer before employing or appointing any person, to ascertain whether the proposed employee or proposed appointee is included in an advisory list. This instrument is made under the powers conferred in section 252(1) and paragraphs 1(3), 5(1)(b), 6, 7(2), 7(3), 9(2), 11(3) and 13(e) of Schedule 25 to the Act.

6.2 The regulations provide for the maintenance by the Authority of a barred list for BTP. They provide for the information that needs to be included in such list and the information that has to be published in relation to such list. It also sets out the circumstances and processes for the removal of a person from the barred list. The regulations also provide for the maintenance by the Authority of an advisory list for the BTP. They provide for the information that needs to be included in such list and the circumstances and processes for the removal of a person from the advisory list.

Why was this approach taken to change the law?

6.3 The barred and advisory lists have been created as part of a series of reforms within the police discipline system, to increase transparency and accountability. The police barred and advisory list for the territorial police forces was introduced by section 30 of the Policing and Crime Act 2017. A similar approach was needed for the BTP, CNC, MDP and NCA to ensure that persons that do not meet the standards required of the police service are not able to continue to work in policing for other police forces.

7. Consultation

Summary of consultation outcome and methodology

7.1 This instrument was not subject to public consultation.

7.2 During the passage of the 2026 Act, the Home Office consulted with the Information Commissioner's Office, in relation to the barred and advisory lists which will be maintained by the Director General of the National Crime Agency, the Authority, the Civil Nuclear Police Authority and the Secretary of State as required by Article 36(4) of assimilated Regulation (EU) 2016/679 (United Kingdom General Data Protection Regulation) ("UK GDPR").

8. Applicable Guidance

8.1 The Authority's guidance on police misconduct, unsatisfactory performance and attendance management procedures will be updated to reflect this change.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as no, or no significant impact on the private, voluntary or public sector is foreseen. A De

Minimus Assessment has been prepared and is published alongside this instrument at www.legislation.gov.uk.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is minimal and is limited to the Authority,

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Department for Transport, with engagement with the Authority, will keep the operation of these regulations under review, including following subsequent inspections related to this issue undertaken by HMICFRS.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Article 36(4) of the UK GDPR requires the Secretary of State to consult the Information Commissioner when preparing a legislative measure to be adopted by Parliament. The Information Commissioner was consulted on all of the measures in this instrument. To the extent that Article 36(4) of the UK GDPR required the Secretary of State to consult the Information Commissioner on the measures in this instrument, that obligation has therefore been complied with.

11.2 Article 36(4) is not cited in the preamble to this instrument. Paragraph 3.11.28 of Statutory Instrument Practice states "The preamble should set out the fulfilment of any condition that the enabling Act requires before the SI can be made". The UK GDPR is not the enabling Act for this instrument.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").